

STATE OF WASHINGTON



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

Barkley Associates LLC
&
Robert K. Knode,

Licensees.

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D 05 - 106

STIPULATION AND CONSENT ORDER

STIPULATED FACTS:

1. Barkley Associates LLC (Agency) has been a licensed insurance agency and broker continuously since May 2, 2002.
2. Robert K. Knode has been a licensed insurance agent since March 15, 1993, and a licensed insurance broker since June 7, 1996.
3. Robert K. Knode owns 100 percent of the Agency and is directly responsible for the accounting for, and disbursement of, Agency funds.
4. Office of the Insurance Commissioner (OIC) Insurance Examiner IV, Ken Combs, completed an on-site financial exam on December 9, 2004. He discovered that the Agency's accounting system failed to adequately identify current balances with the result that the Agency's premium account funded some of the Agency's business operations. As of January 31, 2005, the premium account had a shortfall of approximately \$ 279,647.
5. The shortage in the premium account occurred when Robert K. Knode transferred more funds from the Agency's premium account than the Agency had earned. Knode used these funds to pay for various business operations in addition to paying premiums and return premiums. There is no evidence of intentional misapplication of funds or that Robert K. Knode misappropriated funds for personal gain.
- 6 At no time relevant to this matter did any consumer, insurance agent, insurance broker, or insurance company go unpaid or suffer demonstrable harm.

CONCLUSIONS OF LAW:

1. As a licensed insurance agent/broker, Barkley Associates LLC is governed by the provisions of Title 48 RCW and Title 284 WAC.
2. As a licensed insurance agent/broker, Robert K. Knode is governed by the provisions of Title 48 RCW and Title 284 WAC.
3. Robert K. Knode, on behalf of Barkley Associates LLC, failed to properly report and account for insurance premiums received in a fiduciary capacity, in violation of RCW 48.17.480.
4. Although the agency set up a separate account for insurance premiums and return premiums, Robert K. Knode, on behalf of Barkley Associates LLC, failed to account for and maintain insurance premiums or return premiums in an account separate from all other business funds, in violation of RCW 48.17.600.
5. Robert K. Knode has violated RCW 48.17.480 and RCW 48.17.600 and the Commissioner may seek revocation of the insurance licenses of Robert K. Knode and Barkley Associates LLC, pursuant to RCW 48.17.530.

CONSENT TO ORDER:

1. Robert K. Knode and Barkley Associates LLC, hereby admit to the foregoing Stipulated Facts and Conclusions of Law. Robert K. Knode and Barkley Associates LLC, acknowledge their duty to comply fully with the applicable laws of the State of Washington.
2. The Commissioner has offered a settlement in lieu of suspending or revoking the insurance agent's and broker's licenses of Robert K. Knode and Barkley Associates LLC.
3. By agreement of the parties, the OIC will impose a fine of \$25,000 on Robert K. Knode for the violations set forth herein. In addition, the parties agree that OIC will suspend collection of \$20,000 of the fine if the following conditions are met:

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CONDITIONS:

1. Robert K. Knode shall pay the \$5,000 fine within thirty days of the effective date of this Order.
2. Robert K. Knode will secure investors or funds within 90 days from the date of this order to bring the premium account in balance with premiums collected. Any proposed sale of any portion of Barkley Associates LLC, prior to full satisfaction of all the terms and conditions of this Order, will be subject to the prior written approval of the OIC.
3. Barkley Associates LLC shall make changes to its accounting system(s) to ensure proper compliance with the reporting and accounting of premiums in compliance with RCW 48.17.480.
4. Barkley Associates LLC shall make changes to its accounting system(s) to ensure proper compliance with the separation of premium funds in compliance with RCW 48.17.600.
5. For a period of 24 months, Robert K. Knode and Barkley Associates LLC will provide OIC with monthly financial statements demonstrating their compliance with RCW 48.17.480 and RCW 48.17.600.
6. Robert K. Knode and Barkley Associates LLC acknowledge and understand OIC has the right to audit the licensees' accounting and sales records during normal business hours as often as it deems appropriate without sending prior notification to the licensees.

EXECUTED and AGREED this 14th day of March, 2005.

By: _____
Robert K. Knode, President
Barkley Associates LLC, Licensee
&
Robert K. Knode, Licensee

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ORDER

Pursuant to RCW 48.17.560 and the foregoing Consent Order, the Commissioner hereby imposes a total fine in the amount of \$25,000 upon Barkley Associates LLC, and Robert K. Knode, and suspends \$20,000 of the fine.

The \$5,000 fine shall be paid in full within thirty days from the date of this Order. If the licensees fail to pay the fine, the Commissioner will revoke the licenses of Robert K. Knode and Barkley Associates LLC, and the total fine, including the suspended amount, will be recoverable in a civil action brought on behalf of the Commissioner by the Attorney General's Office.

Failure to comply with all of the conditions set forth in the Conditions Section of the Stipulation and Consent Order shall constitute grounds for collection of the entire amount of \$25,000 and the initiation of license revocation proceedings against the licenses of Barkley Associates LLC and Robert K. Knode.

ENTERED AT TUMWATER, WASHINGTON, this 18th day of March, 2005.

MIKE KREIDLER
Insurance Commissioner

By

SCOTT JARVIS
Deputy Commissioner

Examiner: Ken Combs